

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Public Health	(2) MEETING DATE 5/6/2014	(3) CONTACT/PHONE Penny Borenstein / 781-5519 Curtis Batson / 781-5550	
(4) SUBJECT Hearing to consider an ordinance to continue the provisions and restrictions that were in place in the Land Application of Treated Sewage Sludge/Biosolids interim ordinance for a period of four years, and find the ordinance consistent with the previously adopted Negative Declaration/Environmental Determination No. ED03-149. All Districts.			
(5) RECOMMENDED ACTION It is recommended that the Board: 1) waive the reading of the ordinance; 2) approve the ordinance in Attachment 2, to continue the provisions and restrictions that were in place in the Land Application of Treated Sewage Sludge/Biosolids interim ordinance; and 3) find the ordinance consistent with the previously adopted Negative Declaration/Environmental Determination No. ED03-149.			
(6) FUNDING SOURCE(S) N/A	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? N/A
(10) AGENDA PLACEMENT { } Consent { } Presentation {X} Hearing (Time Est. <u>45 min.</u>) { } Board Business (Time Est. <u> </u>)			
(11) EXECUTED DOCUMENTS { } Resolutions { } Contracts {X} Ordinances { } N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A { } 4/5 Vote Required {X} N/A	
(14) LOCATION MAP N/A	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY { } N/A Date: <u>April 22, 2014</u>	
(17) ADMINISTRATIVE OFFICE REVIEW Reviewed by Leslie Brown			
(18) SUPERVISOR DISTRICT(S) All Districts			

County of San Luis Obispo



TO: Board of Supervisors

FROM: Jeff Hamm, Health Agency Director
Penny Borenstein, MD, MPH, Health Officer

DATE: May 6, 2014

SUBJECT: Hearing to consider an ordinance to continue the provisions and restrictions that were in place in the Land Application of Treated Sewage Sludge/Biosolids interim ordinance for a period of four years, and find the ordinance consistent with the previously adopted Negative Declaration/Environmental Determination No. ED03-149. All Districts

RECOMMENDATION

It is recommended that the Board:

- 1) waive the reading of the ordinance;
- 2) approve the ordinance in Attachment 2, to continue the provisions and restrictions that were in place in the Land Application of Treated Sewage Sludge/Biosolids interim ordinance; and
- 3) find the ordinance consistent with the previously adopted Negative Declaration/Environmental Determination No. ED03-149.

DISCUSSION

Background

Since 1998, the issue of the land application of biosolids (for ease of readership, "treated sewage sludge/biosolids" is hereafter referred to as "biosolids") has been the subject of two separate efforts to guide public policy in San Luis Obispo County. Both efforts included public and local agency participation in working groups.

The Board directed the Public Health Department to convene a task force to consider options for managing the land application of biosolids. The Task Force recommended creation of a local ordinance establishing more stringent requirements for the quality of land applied biosolids, as well as local control and oversight of how, when and where such material may be applied. The Board then directed the Public Health Department to draft a local ordinance regulating the land application of biosolids based on the recommendations contained in the Task Force report. In order to comply with Board direction, the Task Force reconvened to draft an interim ordinance that would, among other things, limit the acceptance or processing of new land application projects beyond historical amounts of exceptional quality biosolids until a permanent ordinance is completed. The interim ordinance was introduced to the Board for approval in February of 2004, and subsequently enacted on March 2, 2004. The interim ordinance was extended in March 2006 and again in March 2010.

The Board voted on April 21, 2009 to defer the proposed permanent ordinance development process due to concerns regarding the estimated cost of environmental review associated with the CEQA process. The cost of an environmental review is estimated to be \$200,000. As a result, the Board decided to extend the existing interim ordinance until March 2014 or until a permanent ordinance is enacted.

In March 2013, the Health Agency went to the Board to request direction for amending/replacing San Luis Obispo County Code Chapter 8.13 Land Application of Treated Sewage Sludge.

At that time, the Board directed staff to:

- Extend the existing Land Application of Treated Sewage Sludge/Biosolids interim ordinance until March 2017.
- Develop a work plan and funding requirements to continue the consideration of a permanent ordinance, with efforts directed towards testing the constituents of sludge that might be applied to land sites.
- Work with the Integrated Waste Management Authority to evaluate and research alternative techniques for biosolids disposal.

Interim Ordinance

Due to unforeseen delays, the Health Agency did not return to your Board with an item to approve the extension of the existing Land Application of Treated Sewage Sludge/Biosolids interim ordinance to March 2017 and thus the interim ordinance expired on March 9, 2014. Staff is now returning to your Board with a recommendation to adopt revisions to Chapter 8.13 of the County Code to continue the provisions and restrictions that were put in place in the Land Application of Treated Sewage Sludge/Biosolids interim ordinance. However, staff's recommendation is for a four year term of the ordinance, to March 2018, rather than the three year term imagined back in 2013. There are two primary reasons for the longer term. The first is the existence of a pending report expected to be published in 2015 by US Environmental Protection Agency (USEPA). The report will address the effects of ten pollutants and 135 other compounds associated with biosolids. The second is that Department of Planning and Building staff anticipate the California Environmental Quality Act (CEQA) review will require about two years to complete, due to the complexity of the issue and its controversial nature.

If approved, this recommendation will adopt an ordinance to continue the provisions and restrictions of the expired Land Application of Treated Sewage Sludge/Biosolids interim ordinance until March 2018. Continuation of the provisions and restrictions of the interim ordinance will allow for recycling a natural resource at amounts that do not exceed historic levels of land application, protects the public health and the environment, and allows for the notification of the Public Health Department when biosolids are proposed to be applied to land.

The ordinance:

- Defines biosolids, exceptional quality biosolids and persons regulated by the ordinance. Persons include any individual firm, association, partnership, political subdivision, government agency, municipality, public or private corporation, or any other entity whatsoever.
- Remains in effect until March 2018 or until a permanent ordinance is adopted, whichever occurs first.
- Requires notification of the Public Health Department, Environmental Health Services Division 30 days prior to the land application of biosolids exceeding or equaling 5 cubic yards.
- Places a cap of 1,500 cubic yards on the cumulative total of exceptional quality biosolids that can be land applied in any 12-month period beginning with the adoption of this ordinance.
- Allows unused capacity to be carried over for a 12-month period.
- "Biosolids" as used in this ordinance excludes biosolids composted with other organic products such as green waste and sold in bulk form.

Composted biosolids in 40-pound bags are currently available at most retail nurseries and large hardware stores with nursery sections. This material can be applied by anyone without regulatory oversight. Consistent with the availability of commercially bagged composted biosolids, the ordinance exempts the land application of biosolids used in compost. This composted material is comprised of biosolids mixed with green waste. Done properly, the use of high quality biosolids in compost has been shown to be a safe and effective way to recycle this natural resource.

The original interim ordinance was sent to the Environmental Division of the Planning Department for California Environmental Quality Act (CEQA) review. The CEQA review process was completed where it was determined that the ordinance could not have a significant adverse effect on the environment and a Negative Declaration was issued. The department will use the Negative Declaration (No. ED03-149) issued for the original interim ordinance as the environmental document for this biosolids interim ordinance.

Work Plan

A work plan and funding requirements for the development of a permanent land application of biosolids ordinance is attached. The work plan provides a timeline and associated costs for the development of the permanent biosolids ordinance.

Integrated Waste Management Authority Evaluation

The manager of the Integrated Waste Management Authority (IWMA) was consulted regarding alternative techniques for biosolids disposal. He made a brief report to the IWMA Board of Directors. Based on his knowledge and expertise he reported that the recycling of biosolids through land application and current methods of disposal in landfills and use as alternate daily cover are the most viable alternatives for the use and disposal of biosolids. Attempts have been made in past years to use biosolids as a source of fuel. Since biosolids are largely composed of water, the cost of drying biosolids and use as a fuel is prohibitively expensive.

OTHER AGENCY INVOLVEMENT/IMPACT

County Counsel's Office has reviewed and approved the ordinance as to form and legal effect.

Since adoption of the biosolids interim ordinance in 2004, numerous state and local agencies, as well as private citizens, non-profit agencies and other interested parties have been involved in its development. They include the Air Pollution Control District, Agricultural Commissioner's Office, Cal Poly, Ecoslo, Environmental Division of County Planning Department, Center for Sludge Information, Regional Water Quality Control Board, San Luis Obispo County Farm Bureau, City of San Luis Obispo Wastewater Treatment Plant, South County Wastewater Treatment Plant, Synagro, University of California Cooperative Extension, San Luis Obispo County Health Commission, Sierra Club and other interested parties.

FINANCIAL CONSIDERATIONS

There are no financial considerations related to the enactment of this ordinance. However, as part of the preparation for the permanent replacement of the interim ordinance, California Environmental Quality Act (CEQA) review is expected to begin in FY 2015-16 and be completed in FY 2017-18.

RESULTS

Since the enactment of the ordinance, no land application projects utilizing biosolids equal to or exceeding five cubic yards have occurred in the unincorporated area of the County. In addition, no complaints have been received associated with land applied biosolids.

Approval of the recommendation would result in the continuation of the provisions and restrictions of the interim ordinance that allowed for the recycling of a natural resource at amounts that do not exceed historic levels of land application, protected public health and the environment, and allowed for the notification of the Public Health Department when biosolids are proposed to be applied to land. The overall result supports the County's vision of a Healthy and Safe Community.

ATTACHMENTS

1. Existing Ordinance 3186: Interim Moratorium on the Land Application of Treated Sewage Sludge/Biosolids
2. Proposed replacement version of Ordinance 3186: Interim Moratorium on the Land Application of Treated Sewage Sludge/Biosolids
3. Negative Declaration/Environmental Determination No. ED03-149
4. Work Plan to continue provisions and restrictions of the Interim Land Application of Sewage Sludge/Biosolids Ordinance and to continue development of a Permanent Land Application of Biosolids Ordinance